

MINUTE ENTRY

[Greer Minute Entry]

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution, Article VI, Section 16, and A.R.S. Section 12-124(A). This case has been under advisement and the Court has considered and reviewed the record of the proceedings from the Avondale City Court and the memoranda submitted by counsel.

Appellant is appealing the trial court's determination that he was guilty of speeding. The ticketing officer cited Appellant for driving his vehicle at sixty-five miles per hour in a forty-five mile per hour zone. Appellant alleges he was traveling at a lawful speed because Arizona Revised Statute § 28-701 provides for a maximum speed of sixty-five miles per hour in locations other than school crossings and business or residential areas.¹ He argues that the violation in question took place in an area that was not a business or residential area.² Appellee states that this is a novel argument not raised at trial.³ Appellee further alleges that there was substantial evidence to support the trial court's verdict.⁴

This Court rejects Appellee's argument that Appellant did not raise this issue at trial. Appellant questioned the ticketing officer about the type of neighborhood in which the incident occurred and, in his closing statement, argued that this testimony showed the speed limit in that location should have been sixty-five miles per hour.⁵ This issue is therefore appropriate for appeal.

In matters of statutory interpretation, the standard of review is *de novo*.⁶ However, the appellate court does not reweigh the evidence.⁷ Instead, the evidence is reviewed in a light most favorable to affirming the lower court's ruling.⁸

Arizona Revised Statute § 28-703 authorizes local authorities to make alterations to the maximum speed limits provided for in Arizona Revised Statute § 28-701. Although Appellant cites much of Arizona Revised Statute § 28-703 in his memorandum, he has ignored the subsection most relevant to his case. This

¹ ARIZ. REV. STAT. § 28-701(B); Appellant's Memorandum at page 2.

² Appellant's Memorandum, at page 2.

³ Appellee's Memorandum at page 4.

⁴ Id. at page 3.

⁵ See audiotape of trial.

⁶ In re Kyle M., ___ Ariz. ___, 27 P.3d 804, 805 (Ariz. Ct. App. 2001). See also, State v. Jensen, 193 Ariz. 105, 970 P.2d 937 (Ariz. Ct. App. 1998).

⁷ Id.

⁸ 27 P.3d at 805; State v. Fulminante, 193 Ariz. 485, 492-3, 975 P.2d 75, 82-83 (1999).

states that local authorities may "decrease the [speed] limit outside any business or residence district."⁹ The testimony of the ticketing officer was that the area in question consisted largely of open land on one side of the street, with a few buildings on the opposite side.¹⁰ Therefore, this location fits within the parameters of this statute. Appellant has not provided any evidence suggesting local authorities were not within their right to exercise their power under this statute and lower the speed limit in this location to forty-five miles per hour.

IT IS THEREFORE ORDERED affirming the judgment of guilt and sentence of the Avondale City Court in this case.

IT IS FURTHER ORDERED remanding this matter back to the Avondale City Court for all further and future proceedings.

⁹ Ariz. Rev. Stat. § 28-703 (A) (3).

¹⁰ See audiotape of trial.